

HUGH LEE FANT

MAY 20, 1958.—Committed to the Committee of the Whole House and ordered to be printed

Mr. LANE, from the Committee on the Judiciary, submitted the following

REPORT

[To Accompany H. R. 10142]

The Committee on the Judiciary, to whom was referred the bill (H. R. 10142) for the relief of Hugh Lee Fant, having considered the same, report favorably thereon with amendment and recommend that the bill, as amended, do pass.

The amendment is as follows:

Page 2, line 2, strike out "in excess of 10 per centum thereof".

The purpose of the proposed legislation is to pay the sum of \$248.29 to Hugh Lee Fant. The payment of such sum is in full settlement of all claims against the United States arising out of the failure of the Department of the Army to pay his mother class E allotment deducted from his pay for the period February 1, 1946, through October 31, 1946.

The report from the Department of the Army dated May 9, 1948, gives in detail the history of the proposed legislation and recommends the enactment of the bill. Therefore, after a careful review of the evidence and the report your committee concurs in that recommendation. No attorney is involved. The report is as follows:

DEPARTMENT OF THE ARMY,
Washington, D. C., May 9, 1958.

HON. EMANUEL CELLER,
*Chairman, Committee on the Judiciary,
House of Representatives.*

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of the Army with respect to H. R. 10142, 85th Congress, a bill for the relief of Hugh Lee Fant.

This bill provides as follows:

"That the Secretary of the Treasury is hereby authorized and directed to pay, out of any money in the Treasury not otherwise

appropriated, to Hugh Lee Fant of Uniontown, Pennsylvania, the sum of \$248.29. The payment of such sum shall be in full settlement of all claims against the United States arising out of the failure of the Department of the Army to pay his mother class E allotments deducted from his pay for the period February 1, 1946 through October 31, 1946, the present payment of such allotments being barred solely by reason of lapse of time."

The Department of the Army favors the enactment of the above-mentioned bill.

Records of the Department show that Hugh Lee Fant was inducted into the Army on February 24, 1941, and received an honorable discharge on January 1, 1946. On January 11, 1946, he reenlisted, and he received another honorable discharge on December 31, 1946. At the time of the commencement of his second period of service, Mr. Fant executed a class E allotment in the amount of \$28 per month, naming his mother, Elizabeth Fant, as the allottee. Throughout this period of service the \$28 was deducted from his pay each month. However, because of some error, the allotment check was never received by Mrs. Fant and pertinent records show that such sums were never in fact paid by the Army.

On July 30, 1946, when it came to Mr. Fant's attention that the \$28 allotment had never been received by his mother, he communicated with the Army Finance Center, then located in St. Louis, Mo., requesting a refund of the amount deducted from his pay. Apparently, the Finance Center had no record of the allotment, and, consequently, took no action in response to Mr. Fant's request.

Upon receiving his discharge from the Army, Mr. Fant diligently attempted to obtain a refund of the sums owing to him. He wrote to The Adjutant General of the Army on January 28, 1947, to the Army Central Adjustment Office in St. Louis, Mo., on January 29, 1947, and to the Class E Allotment Division of the Finance Corps, also in St. Louis, on March 28, 1947. Although an investigation of this claim was conducted and although Mr. Fant's allegations were apparently substantiated, no action was taken to reimburse Mr. Fant and he allowed the matter to drop until March 27, 1957, when he filed a formal claim for refund with the General Accounting Office. On July 6, 1957, the claim was denied by the General Accounting Office because the 10-year statute of limitations, applicable to cases of this nature (31 U. S. C. 71a) had expired.

It cannot be said that in this case the claimant has "slept" on his rights; to the contrary, from the time he discovered the error, he vigorously attempted to collect the sums due him. Furthermore, the primary purpose of a statute of limitations is to serve as a bar to stale claims, where the passage of time has led to the loss or destruction of pertinent records. In this case, this is not true. All pertinent records are available, and these records indicate that the amount claimed by Mr. Fant actually represents money deducted from his pay and never paid to his allottee. Accordingly, the Department of the Army favors the enactment of this bill.

The cost of this bill, if enacted, will be \$248.29.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely yours,

WILBER M. BRUCKER,
Secretary of the Army.